Supreme Court, U.S.
FILED
JUL 10 1987
JOSEPH F. SPANIOL, JR.
CLERK

No. 86-1967

IN THE
Supreme Court of the United States
OCTOBER TERM, 1986

WILLIAM P. TAVOULAREAS,
Petitioner,

v.

THE WASHINGTON POST COMPANY,

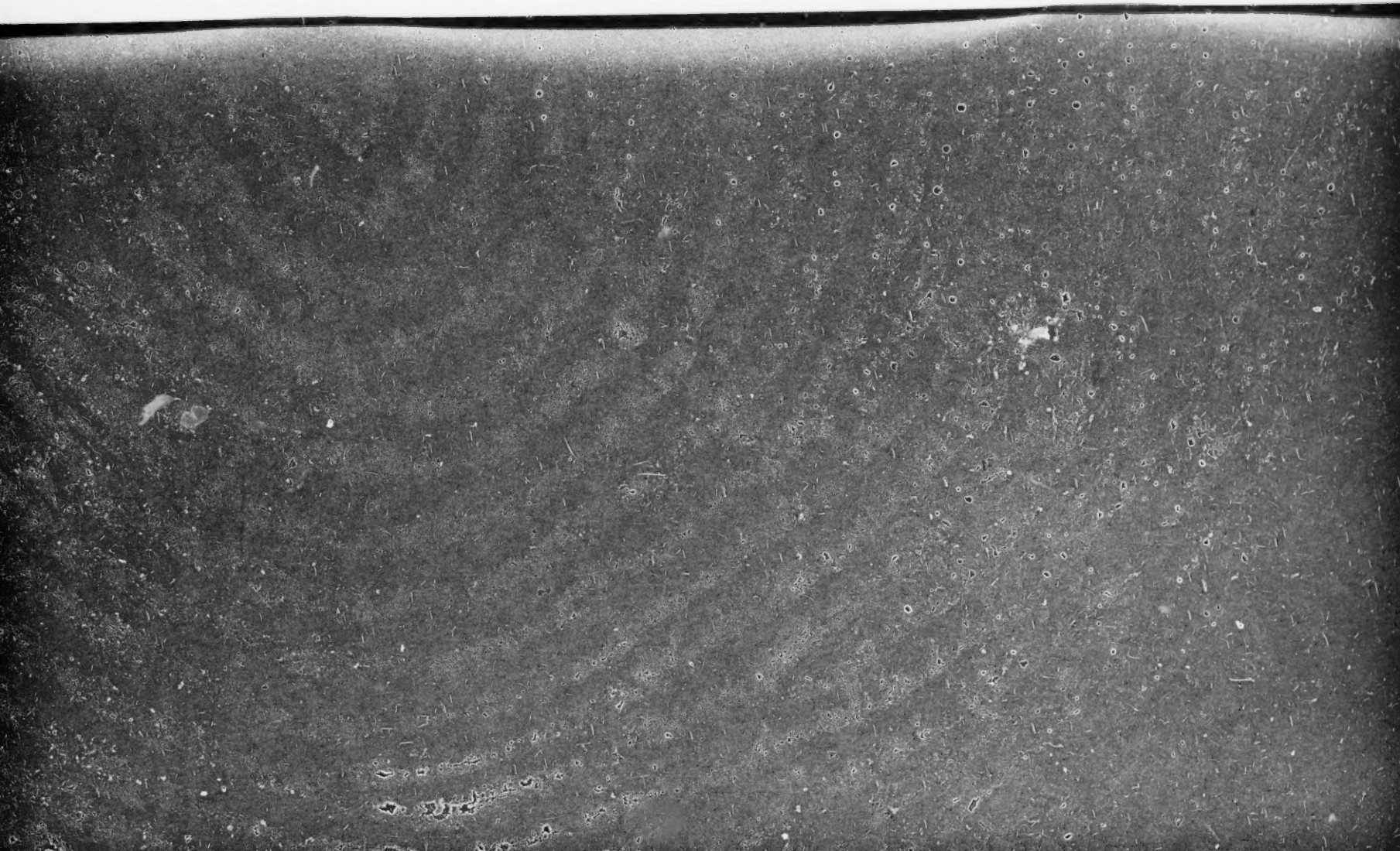
and

PATRICK E. TYLER,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

EDWARD BENNETT WILLIAMS
Counsel of Record
DAVID E. KENDALL
KEVIN T. BAINE
PAUL MOGIN
WILLIAMS & CONNOLLY
Hill Building
839 17th Street, N.W.
Washington, D.C. 20006
(202) 331-5000
Counsel for Respondents

WILSON - EPES PRINTING CO., INC. - 789-0096 - WASHINGTON, D.C. 20001



RULE 28.1 LISTING

The following are parents, subsidiaries (except wholly owned subsidiaries) or affiliates of respondent The Washington Post Company:

Bowater Mersey Paper Company Limited
International Herald Tribune, S.A.
Los Angeles Times—Washington Post News Service, Inc.
Bear Island Paper Company
Bear Island Timberlands Company
Washington/Baltimore Cellular Telephone Company
Sandoval County Cable Television Co.
Detroit Cellular Telephone Company
SportsChannel Prism Associates
SportsChannel Chicago Associates
SportsChannel New England Limited Partnership
SportsChannel Associates

TABLE OF CONTENTS

	Page
RULE 28.1 LISTING	i
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
STATEMENT OF THE CASE	1
REASONS FOR DENYING THE WRIT	5
I. The Court of Appeals' Decision Was Based on Well-Established Principles of Law	6
A. Truth	6
B. Defamatory Meaning	7
C. The J.N.O.V. Standard	9
D. The Seventh Amendment	12
E. Public Figure	13
II. The Court of Appeals' Fact-Bound Determinations Do Not Warrant Review by This Court	15
A. Defamatory Meaning	16
B. Truth	19
C. Actual Malice	20
D. Public Figure	23
CONCLUSION	25
APPENDIX	

TABLE OF AUTHORITIES

CASES: Page

Aetna Ins. Co. v. *Kennedy*, 301 U.S. 389 (1937) .. 13
Anderson v. *Liberty Lobby, Inc.*, 106 S. Ct. 2505 (1986) 14
Baltimore & Carolina Line, Inc. v. *Redman*, 295 U.S. 654 (1935) 13
Bartimo v. *Horsemen's Benevolent and Protective Ass'n*, 771 F.2d 894 (5th Cir. 1985), *cert. denied*, 106 S. Ct. 1635 (1986) 12
Berenyi v. *District Director, INS*, 385 U.S. 630 (1967) 16
Bose Corp. v. *Consumers Union*, 466 U.S. 485 (1984) ..... *passim*
Curtis Publishing Co. v. *Butts*, 388 U.S. 130 (1967) 14
Dox v. *Postmaster-General*, 26 U.S. (1 Pet.) 318 (1828) 13
Dun & Bradstreet, Inc. v. *Greenmoss Builders, Inc.*, 472 U.S. 749 (1985) 14, 15
Fiske v. *Kansas*, 274 U.S. 380 (1927) 13
Galloway v. *United States*, 319 U.S. 372 (1943) 13
Garrison v. *Louisiana*, 379 U.S. 64 (1964) 6
General Motors Corp. v. *District of Columbia*, 380 U.S. 553 (1965) 9
Gertz v. *Robert Welch, Inc.*, 418 U.S. 323 (1974) .. 13, 14, 15
Graver Tank & Mfg. Co. v. *Linde Air Products Co.*, 336 U.S. 271 (1949) 16
Greenbelt Cooperative Publishing Ass'n v. *Bresler*, 398 U.S. 6 (1970) 14
Houston Oil Co. v. *Goodrich*, 245 U.S. 440 (1918) .. 16
Hutchinson v. *Proxmire*, 443 U.S. 111 (1979) 14
McCoy v. *Hearst Corp.*, 42 Cal. 3d 835, 231 Cal. Rptr. 518, 727 P.2d 711 (1986) (In Bank), *cert. denied*, 107 S. Ct. 1983 (1987) 12
Neely v. *Martin K. Eby Constr. Co.*, 386 U.S. 317 (1967) 13
New York Times Co. v. *Sullivan*, 376 U.S. 254 (1964) 10, 12, 13

TABLE OF AUTHORITIES—Continued

Page

NLRB v. *Hendricks County Rural Electric Membership Corp.*, 454 U.S. 170 (1981) 15
Philadelphia Newspapers, Inc. v. *Hepps*, 106 S. Ct. 1558 (1986) 6
Time, Inc. v. *Firestone*, 424 U.S. 448 (1976) 14
United States v. *Doe*, 465 U.S. 605 (1984) 16
United States v. *Johnston*, 268 U.S. 220 (1925) 15
Waldbaum v. *Fairchild Publications, Inc.*, 627 F.2d 1287 (D.C. Cir.), *cert. denied*, 449 U.S. 898 (1980) 13, 14, 23
Wolston v. *Reader's Digest Ass'n*, 443 U.S. 157 (1979) 14

CONSTITUTIONAL PROVISIONS:

United States Constitution

First Amendment 8, 10, 13
Seventh Amendment 12, 13

OTHER AUTHORITIES:

Restatement (Second) of Torts § 614 (1977) 7

IN THE

Supreme Court of the United States

OCTOBER TERM, 1986

No. 86-1967

WILLIAM P. TAVOULAREAS,
Petitioner,

v.

THE WASHINGTON POST COMPANY,

and

PATRICK E. TYLER,
Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

STATEMENT OF THE CASE

William P. Tavoulareas, the president of Mobil Corporation, and his son Peter brought this libel action challenging two articles published in *The Washington Post* on November 30, 1979, and December 1, 1979. The November 30 article, entitled "Mobil Chief Sets Up Son in Venture," reported that William Tavoulareas had "set up his son . . . as a partner in a London-based shipping management firm [Atlas Maritime Co.] that has since done millions of dollars in business operating Mobil-owned

ships." A270.[1] The December 1 article, entitled "Dingell Cites Contradictions in Mobil Statements," reported Rep. John Dingell's statements in a letter to the Chairman of the SEC that William Tavoulareas may have given "false and misleading" testimony concerning the arrangement, and that "[i]t . . . appears that William [Tavoulareas] misused corporate assets to buy out George Comnas [Peter's partner in Atlas] and enrich his son." Appendix to Brief in Opposition ("App. Opp.") 1a, 3a.

On July 30, 1982, after a three-week trial, a jury found that the Post and its reporter, Patrick E. Tyler, were not liable to Peter Tavoulareas for either article, and that they were not liable to William Tavoulareas for the December 1 article. The jury found, however, that the Post and Tyler were liable to William Tavoulareas for publication of the November 30 article. A2 & n.2.[2]

On May 2, 1983, the district court (Hon. Oliver Gasch) entered judgment *non obstante veredicto* in favor of the Post and Tyler, ruling that there was no evidence of actual malice:

> [O]n this motion for judgment n.o.v., the evidence adduced at trial must be construed in the light most favorable to the plaintiff. With this in mind, the court has thoroughly reviewed the massive record in this case and has concluded that there is no evidence to support the jury's verdict.

A21. The court had previously ruled that William Tavoulareas was a limited-purpose public figure and thus subject to the actual-malice standard. A370, 372-86.

---

[1] Citations to page numbers beginning with "A" are to the Appendix to Petition for a Writ of Certiorari.

[2] The jury also found that two other Post employees, Executive Editor Benjamin C. Bradlee and Assistant Managing Editor Robert U. Woodward, had no liability to either plaintiff, and that a "special correspondent," Sandy Golden, was liable for the November 30 article. A2 & n.2. Golden was granted j.n.o.v., the court of appeals affirmed, and the Petition does not challenge that judgment. See Petition at 8 n.2.

William Tavoulareas appealed, and on April 9, 1985, a divided panel of the court of appeals reversed the judgment in favor of the Post and Tyler, holding that the jury reasonably could have found that they acted with actual malice. A108, 111-13. The panel majority did not reach Tavoulareas' challenge to the district court's ruling that he was a limited-purpose public figure. A41.

The full court of appeals then granted the petition of the Post and Tyler for rehearing *en banc*.[3] A391. Following additional briefing and oral argument, the full court of appeals, by a vote of 7 to 1, affirmed the district court's grant of j.n.o.v. in favor of the Post and Tyler. A198.

Six members of the court, in an opinion by Judges Starr and Wright, concluded that "[t]he *undisputed* evidence at trial, including plaintiff's own testimony, precludes any reasonable inference that the central allegation of the challenged article—that Tavoulareas 'set up' Peter in Atlas—was false." A237 (emphasis in original). Stressing that "[t]he record abounds with uncontradicted evidence of nepotism in favor of Peter," A239, the court held that "no reasonable jury could, on this record, find that the 'set up' allegation was false." A243 (footnote omitted).

After finding that the central thrust of the article was true, the court turned to certain subsidiary statements and alleged implications challenged by Tavoulareas. First, the court held that the article did not falsely suggest a direct link between Mobil and Atlas: "Given the overwhelming proof at trial of precisely such a link, this argument collapses at the outset." A244. Second, the court ruled that the defendants could not be liable for stating that William Tavoulareas dispatched one of his senior shipping executives to London to help run Atlas,

---

[3] Circuit Judge Bork recused himself from all participation in this case in the court of appeals.

since "the only derogatory implication of the dispatch statement is undisputedly correct." A246.

The court concluded that the jury reasonably could have found one statement in the November 30 article—that William Tavoulareas "personally urged" George Comnas to accept Peter as a partner in Atlas—to be false and to carry "an independent defamatory implication." A247. Because the full court concluded that William Tavoulareas was a public figure for purposes of the Post article, A219, it proceeded to review the evidence to determine whether the jury reasonably could have found that the "personally urged" statement was published with actual malice. A251-67. The court concluded that the evidence could not support such a finding, and that "Judge Gasch's decision to grant j.n.o.v. was fully justified." A251.

The court of appeals determined that the district court's ruling was "manifestly correct" under the traditional j.n.o.v. standard. A220, 222. It therefore found it unnecessary to decide whether *Bose Corp.* v. *Consumers Union*, 466 U.S. 485 (1984), handed down nearly a year after the district court's ruling, "sanctioned independent review as to findings of underlying facts, evaluations of credibility, and the drawing of inferences." A222. Rather than "sail[] into these uncharted waters," *ibid.*, the court "at every turn accepted only undisputed facts or Tavoulareas' version of disputed facts, avoided any evaluation of credibility, and credited all permissible inferences the jury may have drawn favorably to Tavoulareas." A224.

Like the district court, A19, the full court of appeals held that the November 30 article was not capable of bearing an additional meaning ascribed to it by Tavoulareas, namely, that he had engineered the entire Mobil-Samarco-Atlas arrangement for the benefit of his son. A225-36. The court explained:

> As the District Court correctly observed, the *Post*'s allegation that Tavoulareas "set up" his son in Atlas is entirely different from the claim that the *Post* asserted that the creation of the entire Mobil-Samarco-Atlas relationship was a nepotistic act. [A19 & n.16]. The article clearly says the former, not the latter. The article simply will not reasonably bear Tavoulareas' interpretation, as evidenced by his failure to cite anything in the article itself to support this reading. Indeed, the article discussed at length Mobil's legitimate business reasons for participating in Samarco, namely its anticipation of Saudi flag preference requirements and favorable Saudi financing. ¶¶ 38-44, 51.

A230-31 (citations and footnote omitted).

REASONS FOR DENYING THE WRIT

William Tavoulareas concedes in his Petition that the court of appeals' decision, on its face, is "an inappropriate candidate for review by this Court." Petition for a Writ of Certiorari ("Pet.") 13. As he explains it, "[t]he *en banc* court's lengthy and heavily footnoted opinion is crafted to appear as only a fact-dependent application of wholly uncontroversial legal standards." *Ibid.*

The main thrust of the Petition is that the court's opinion is not in fact what it "appear[s]" to be—rather, that its authors "crafted" it to conceal its foundation and meaning. According to Tavoulareas, the court of appeals applied one standard for assessing defamatory meaning while purporting to apply another, and applied a standard of independent review that it explicitly said it was not applying.

Tavoulareas' suggestion that novel rulings of law lie hidden in the court of appeals' decision is completely unfounded, and provides no basis for review by this Court. The legal principles relied upon by the court of appeals

are unassailable, and they fully support the court of appeals' decision. Tavoulareas' disagreement with how those principles were applied in this case is a factual one that does not warrant review by this Court.

I. The Court of Appeals' Decision Was Based on Well-Established Principles of Law.

The court of appeals' opinion did not rest upon any novel or controversial ruling of law. It broke no new legal ground, created no conflict, and will have little impact on how other cases are decided.

As discussed below, the court of appeals explicitly found it "unnecessary" to address the principal legal issue upon which the parties differed—the precise meaning of independent review under *Bose Corp. v. Consumers Union*, 466 U.S. 485 (1984). A222. The legal principles upon which the court did rely are so well-settled as to be beyond serious dispute.

A. Truth

There is certainly no dispute about the most basic legal principle in this case—that a libel plaintiff bears the burden of proving falsity. A236 (citing *Philadelphia Newspapers, Inc.* v. *Hepps*, 106 S. Ct. 1558, 1563 (1986); *Garrison* v. *Louisiana*, 379 U.S. 64, 74 (1964)). This is a threshold obstacle for a libel plaintiff, and it proved largely dispositive of Tavoulareas' claim. After a thorough review of the lengthy evidentiary record, the court of appeals concluded:

> The *undisputed* evidence at trial, including plaintiff's own testimony, precludes any reasonable inference that the central allegation of the challenged article—that Tavoulareas "set up" Peter in Atlas—was false.

A237 (emphasis in original). The court explained that "[t]he record abounds with uncontradicted evidence of nepotism in favor of Peter," A239, and that "no reason-

able jury could, on this record, find that the 'set-up' allegation was false." A243.[4]

B. Defamatory Meaning

Tavoulareas contends that the court of appeals "invoked a radical rule of 'most restrictive meaning' " in rejecting certain interpretations of the article that he advanced. Pet. 16. According to Tavoulareas, the court's opinion "rests entirely" on this "most restrictive meaning" rule, even though the rule was concededly "unarticulated" anywhere in the opinion. Pet. 13. And this Court should grant certiorari to review the court's "unarticulated" rule, Tavoulareas contends, even though it concerns a matter of local District of Columbia law. These contentions are frivolous.

First, the so-called "most restrictive meaning" rule is a figment of Tavoulareas' imagination. There is nothing in the court of appeals' opinion even remotely suggesting that the court was applying any such rule. To the contrary, the court expressly invoked what Tavoulareas concedes to be the "well-established rules" in this area, Pet. 16—namely, (1) that "the role of the court is to determine whether the challenged statement is '*capable* of bearing a particular meaning' "; and (2) that "[t]he jury's proper function, in turn, is to determine whether a statement, held by the court to be capable of a defamatory meaning, was in fact attributed such a meaning by its readers." A228 (quoting *Restatement (Second) of Torts* § 614 (1977)) (emphasis added).

---

[4] Tavoulareas notes that the district court "did not disturb" the jury's implicit finding of falsity. Pet. 8. But neither did the district court suggest that there was any evidence to support such a finding. As the court explained,

> . . . defendants steadfastly maintained that every word in both articles was true. Because the Court finds that there was no proof of actual malice, it does not have to address this question directly.

A5 n.9.

Thus, in rejecting Tavoulareas' claim that the article charged him with engineering the entire Mobil-Samarco-Atlas arrangement to benefit Peter, the court of appeals did not hold that the article was susceptible of a more restrictive reading. Rather, the court concluded that "[t]he article simply will not reasonably bear Tavoulareas' interpretation." A230. It could scarcely be clearer that the court merely applied the familiar principle that it is the function of the court to decide whether a statement is capable of bearing a given meaning ascribed to it by a libel plaintiff.[5]

Second, the proper standard to be applied by the court in assessing defamatory meaning is a matter of state or local law. Even if the court of appeals had embraced a new test for identifying potential defamatory meanings, such a ruling would have been based on District of Columbia law, not federal law, and for that reason alone would be an unlikely candidate for review by this Court.

Recognizing that this Court does not sit to review issues of local law, Tavoulareas argues that "the court below did not purport to ground its invocation of its most restrictive meaning rule in existing District of Columbia law," but rather upon the First Amendment. Pet. 16. The court, however, did not "purport" to apply any such rule at all, much less to announce a new principle of First Amendment law. In its discussion of defamatory meaning, the court relied on its prior decisions under District of Columbia law and on treatises concerning the common law of defamation. A225-36. There is nothing to support Tavoulareas' claim that this portion of the court's opinion rested upon its interpretation of the First Amendment. Tavoulareas' attempt to create a

---

[5] Tavoulareas argues that the court of appeals merely "voiced its formal obedience to [the] well-established rules" in this area. Pet. 16. Courts and litigants in the future, however, will be guided by what the court of appeals said, not by Tavoulareas' distorted view of what it did.

federal constitutional issue is as far-fetched as his effort to manufacture a "most restrictive meaning" rule in the first place.

Tavoulareas claims, in the alternative, that the "most restrictive meaning" rule would warrant review by this Court even if grounded in District of Columbia law, because it will affect newsgathering in the nation's capital and thus have "an impact not confined to the Potomac's shores." Pet. 17, quoting *General Motors Corp.* v. *District of Columbia*, 380 U.S. 553, 556 (1965). Since the "rule" was not articulated anywhere in the Court's opinion, however, and is in fact incompatible with the language of the opinion, it is difficult to see how it could have an impact anywhere.

C. The J.N.O.V. Standard

Both the district court and the court of appeals expressly applied the traditional j.n.o.v. standard—considering the evidence in the light most favorable to the plaintiff, and granting j.n.o.v. only when "reasonable men" could not disagree on the verdict. As the court of appeals explained:

> . . . Judge Gasch applied the traditional standard for overturning a jury verdict: "A trial court may grant [j.n.o.v.] only when 'the evidence, together with all inferences that can reasonably be drawn therefrom[,] is so one-sided [in favor of the moving party] that reasonable men could not disagree on the verdict.'" The District Court considered all the evidence in the light most favorable to Tavoulareas and abstained from assessing the credibility of witnesses or weighing the evidence. We follow the same course.

A220 (citations and footnote omitted) (brackets in original).

Once again, Tavoulareas claims that the court of appeals only "purported to apply" these "traditional" stand-

ards, while in fact applying a "heightened but unarticulated standard of review." Pet. 21-22. In this instance, however, the court not only stated that it was applying the traditional rule; it explicitly declined to consider whether the heightened standard to which Tavoulareas objects would be appropriate. That heightened standard was explicitly disavowed as the basis for the court's decision. A220-23.

As the court of appeals explained, it was "undisputed that *Bose* at least reaffirmed *Sullivan*'s mandated duty of independent review"—that " 'Judges, as expositors of the Constitution, must independently decide whether the evidence in the record is sufficient to cross the constitutional threshold that bars the entry of any judgment that is not supported by clear and convincing proof of "actual malice." ' " A222 (quoting *Bose*, 466 U.S. at 511). The parties differed on whether *Bose* sanctioned independent review as to underlying facts and the drawing of inferences. A222. But the Post contended that the disagreement was academic, because it was entitled to j.n.o.v. under the traditional standard, as the district court had ruled in its pre-*Bose* decision. The court of appeals took note of the "somewhat murky dispute" over the meaning of *Bose*, but agreed that it "need not decide" the issue in this case. A222.

> We have concluded that sailing into these uncharted waters is unnecessary to the proper and principled disposition of this case. Bearing in mind the exacting standard of clear and convincing proof of actual malice, we are persuaded that, when we faithfully apply the traditional j.n.o.v. standards in this First Amendment context, Judge Gasch was manifestly correct.

Ibid. The court repeatedly and unequivocally disavowed any broader standard of review:

> We consistently grant to Tavoulareas all reasonable inferences that could be drawn from the evidence, including all issues of witness credibility. . . .

> . . . [W]e have at every turn accepted only undisputed facts or Tavoulareas' version of disputed facts, avoided any evaluations of credibility, and credited all permissible inferences the jury may have drawn favorably to Tavoulareas. Having done so, we nonetheless are constrained to conclude that the evidence is insufficient to constitute clear and convincing evidence of actual malice.

A223-24.[6]

---

[6] As the quoted statement makes clear, it is simply not true, as Tavoulareas argues, that the court of appeals "assumed the role of the jury and credited . . . Tyler's version of events." Pet. 24. Nor can it be said that Tyler's "notes and credibility were repeatedly impeached." *Ibid.* To the contrary, Tyler and his notes were subjected to intensive scrutiny in the course of this case—Tyler testified for five full days at deposition, and his trial testimony covers over 700 pages. In only one instance was Tavoulareas able to point to any discrepancy between what Tyler and his notes indicated an individual told him and what that individual later testified he said. That instance pertains to a statement—that Tavoulareas dispatched Mobil executive Harmon Hoffman to Atlas—that the court of appeals found not actionable. A245-46. And the discrepancy was a minor one. Tyler testified that a Mobil employee, Everett Checket, had told him he was "somewhat familiar" with a conversation related to Tyler by Philip Piro concerning Tavoulareas' dispatching Hoffman to Atlas. Record Excerpts in Court of Appeals ("RE") 2089-90, 2493. Checket, who was not called as a live witness and whose demeanor could not be judged, testified in his deposition that he did "[n]ot . . . recall" the particular conversation related by Piro, and that he did not tell Tyler he was "somewhat familiar" with that conversation. RE 1844, 1848. Checket acknowledged, however, that he spoke to Tavoulareas about sending Hoffman to Atlas, RE 1844-45, and he never denied that Tavoulareas dispatched Hoffman to Atlas. In any event, in holding that the "dispatch" statement in the article was not actionable, the court of appeals did not resolve any issue of credibility in Tyler's favor. See A245-46, 268 n.54.

The only example the dissent offered of the court's alleged assessment of witness credibility was in its determination that the "set up" statement was true. As the court explained, however, "we rely on Tavoulareas' *own* testimony and on facts undisputed by him to make this finding." A223 (emphasis supplied by court).

In sum, the court of appeals did not announce any new or controversial rule of independent review. It did not even express an opinion on the issue that Tavoulareas seeks to present to this Court—the proper scope of independent review under *Bose*. The court chose instead to dispose of this case on narrow grounds that will have little, if any, impact upon the disposition of other cases. The questions concerning *Bose* that Tavoulareas asks this Court to decide are simply not presented by the court of appeals' opinion.[7]

D. The Seventh Amendment

Tavoulareas argues that "[t]he seventh amendment requires that the evidence, and the reasonable inferences therefrom, be reviewed in the light most favorable to [him]." Pet. 22. But that is precisely how the court of appeals reviewed the evidence in this case, and the suggestion that the Seventh Amendment was violated is insubstantial. In *New York Times Co.* v. *Sullivan*, 376 U.S. 254, 285 n.26 (1964), this Court expressly rejected the contention that the Seventh Amendment precludes an independent examination of the record in cases such as this.[8] The Court explained that independent review of

[7] This Court has denied certiorari in cases in which courts have examined the meaning of *Bose*. See, *e.g.*, *McCoy* v. *Hearst Corp.*, 42 Cal. 3d 835, 231 Cal. Rptr. 518, 727 P.2d 711, 718 (1986) (In Bank), *cert. denied*, 107 S.Ct. 1983 (1987); *Bartimo* v. *Horsemen's Benevolent and Protective Ass'n*, 771 F.2d 894, 898 (5th Cir. 1985), *cert. denied*, 106 S.Ct. 1635 (1986). If the Court nevertheless is inclined to elaborate upon its decision in *Bose*, it should await a case in which an issue under *Bose* is squarely presented. If it were to grant certiorari in this case to elaborate upon *Bose*, it would be proceeding without the benefit of any attempt by a lower court to apply *Bose* to the case.

[8] "The Seventh Amendment does not . . . preclude such an [independent] examination by this Court. . . . [I]ts ban on reexamination of facts does not preclude us from determining whether

findings of fact is appropriate " 'where a conclusion of law as to a Federal right and a finding of fact are so intermingled as to make it necessary, in order to pass upon the Federal question, to analyze the facts.' " *Ibid.* (quoting *Fiske* v. *Kansas*, 274 U.S. 380, 385-86 (1927)). Again in *Bose*, the Court explicitly rejected as "without merit" the contention that the Seventh Amendment precluded the Court's *de novo* review of "First Amendment questions of 'constitutional fact.' " 466 U.S. at 509 n.27.[9]

E. Public Figure

Tavoulareas contends that the court of appeals broadened public figure doctrine by creating "a special 'Fortune 500' rule." Pet. 26. To the contrary, the court expressly reaffirmed its earlier decision that "[b]eing an executive within a prominent and influential company does not by itself make one a [limited purpose] public figure." A214 (quoting *Waldbaum* v. *Fairchild Publications, Inc.*, 627 F.2d 1287, 1299 (D.C. Cir.), *cert. denied*, 449 U.S. 898 (1980)). The court simply rejected the contention that Tavoulareas' "position as president and chief operating officer of one of the world's largest multinational corporations . . . is *irrelevant* to whether [he] has 'invite[d] attention and comment' with respect to public issues affecting his business dealings." A214 (quoting *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 345 (1974)) (emphasis added).

governing rules of federal law have been properly applied to the facts." 376 U.S. at 285 n.26.

[9] It has also long been settled that a court's grant of j.n.o.v. does not violate a party's Seventh Amendment rights. See, *e.g.*, *Neely* v. *Martin K. Eby Constr. Co.*, 386 U.S. 317 (1967); *Aetna Ins. Co.* v. *Kennedy*, 301 U.S. 389 (1937); *Baltimore & Carolina Line, Inc.* v. *Redman*, 295 U.S. 654 (1935); *Dox* v. *Postmaster-General*, 26 U.S. (1 Pet.) 318 (1828). *Cf. Galloway* v. *United States*, 319 U.S. 372, 389 (1943) (argument that directed verdict, granted on same standard as j.n.o.v., violates Seventh Amendment "has been foreclosed for nearly a century").

The court of appeals' public figure analysis was based squarely upon this Court's decision in *Gertz*. Before holding Tavoulareas to be a limited-purpose public figure, the court required a three-fold showing: (1) that the controversy at issue be a public one "both in the sense that 'persons actually were discussing' it, . . . and that 'persons beyond the immediate participants in the dispute [are likely] to feel the impact of its resolution' "; (2) that the plaintiff play a significant role in the public controversy; and (3) that the allegedly defamatory statements be "germane" to the plaintiff's participation in the controversy. A213 (quoting *Waldbaum*, 627 F.2d at 1297).

This three-part test is a strict one, and is consistent with all of this Court's public figure decisions.[10] The court of appeals' public figure determination, from which there was no dissent, would warrant review only if this Court were inclined to adopt Tavoulareas' suggestion that the public figure doctrine should be totally discarded. The principle that public figures must show actual malice to recover damages for libel, however, is by now well established. It has been reaffirmed by this Court on repeated occasions,[11] and is a principle well worth preserving. As this Court has recognized, the events and controversies that affect the well-being of the community and

---

[10] Contrary to Tavoulareas' contention, the Court's public figure decisions have not "spawned diverse tests." Pet. 25. Indeed, the cases cited by Tavoulareas to support this claim, Pet. 25 n.23, discuss the same considerations identified in *Gertz* and applied by the court of appeals in this case.

[11] *Curtis Publishing Co.* v. *Butts*, 388 U.S. 130 (1967); *Greenbelt Cooperative Publishing Ass'n* v. *Bresler*, 398 U.S. 6 (1970); *Gertz* v. *Robert Welch, Inc.*, 418 U.S. 323, 343 (1974); *Time, Inc.* v. *Firestone*, 424 U.S. 448 (1976); *Hutchinson* v. *Proxmire*, 443 U.S. 111 (1979); *Wolston* v. *Reader's Digest Ass'n*, 443 U.S. 157 (1979); *Bose Corp.* v. *Consumers Union*, 466 U.S. 485 (1984); *Dun & Bradstreet, Inc.* v. *Greenmoss Builders, Inc.*, 472 U.S. 749 (1985); *Anderson* v. *Liberty Lobby, Inc.*, 106 S.Ct. 2505 (1986).

shape its future are not limited to those that are exclusively governmental. Individuals outside the government often wield more power and influence than government officials themselves. By their own efforts to "influence the resolution of" significant "public controversies," limited purpose public figures "invite attention and comment," ensure themselves "greater access to the channels of effective communication . . . to counteract false statements" about them, and, like public officials, "run[] the risk of closer public scrutiny." *Gertz*, 418 U.S. at 344-45. It is entirely appropriate to require of these public figures the same showing of actual malice that is demanded of public officials.[12]

II. The Court of Appeals' Fact-Bound Determinations Do Not Warrant Review by This Court.

Far from adopting any novel legal principles, the court of appeals based its rulings on a careful analysis of the specific facts of this case. This Court has emphasized that it does "not grant a certiorari to review evidence and discuss specific facts." *United States* v. *Johnston*, 268 U.S. 220, 227 (1925). See also *NLRB* v. *Hendricks County Rural Electric Membership Corp.*, 454 U.S. 170, 176 n.8 (1981). Particularly when, as in this case, the district court and the court of appeals have agreed that the evidence is insufficient to support a verdict under a proper legal standard, there is no reason for this Court to review the evidence a third time. As this Court explained in dismissing a writ of certiorari as improvi-

[12] In his separate opinion concurring in the judgment in *Dun & Bradstreet*, Justice White suggested that public officials and public figures might be permitted to secure a judgment of falsity without proving actual malice. 472 U.S. at 765. The District of Columbia, however, has not recognized such a cause of action, and this case does not provide a suitable occasion to consider whether such a judgment should be permitted. The court of appeals concluded, on the basis of undisputed evidence, that the Post article was substantially true. A237-43.

dently granted in *Houston Oil Co.* v. *Goodrich*, 245 U.S. 440 (1918):

> The propriety of submitting [petitioners' claims to the jury] depended essentially upon an appreciation of the evidence. Having heard it all the trial court concluded there was not enough in support of any one of petitioners' . . . claims to warrant a finding in their favor and the Circuit Court of Appeals reached the same result.
>
> The record discloses no sufficient reason within the rule long observed why we should review the judgment below.

Id. at 441 (citation omitted). See also *United States* v. *Doe*, 465 U.S. 605, 613-14 (1984).[13] The same conclusion holds true here, as a review of the issues demonstrates.

A. Defamatory Meaning

The November 30 article reported a set of "complicated transactions" that, in the words of the article, were "not illegal" and "not especially unusual in the intricate world of international oil—except perhaps for the presence of family connection." A271. In anticipation of Saudi Arabian regulations giving preference to oil tankers flying under Saudi flags, Mobil bareboat-chartered its vessels to Samarco, a Saudi company in which Mobil ultimately owned a 45 per cent interest. A202, 275-76. Samarco, in turn, time-chartered the vessels back to Mobil, and contracted with Atlas to manage the ships. *Ibid.* The article stated that William Tavoulareas "set up" his son Peter in Atlas, and the court of appeals concluded that the undisputed evidence established that that statement was true. A237.

---

[13] In a somewhat different, but analogous, context, this Court has repeatedly emphasized its reluctance to review concurrent findings of fact by two courts below. *E.g.*, *United States* v. *Doe*, 465 U.S. at 614; *Berenyi* v. *District Director, INS*, 385 U.S. 630, 635 (1967); *Graver Tank & Mfg. Co.* v. *Linde Air Products Co.*, 336 U.S. 271, 275 (1949).

Tavoulareas has argued that the article had a broader meaning—that Tavoulareas had created the entire Mobil-Samarco-Atlas arrangement solely to benefit Peter. Both the district court and the court of appeals rejected that interpretation as "unreasonable" as a matter of law. A225 n.16; A19. As both courts concluded, the Post reported that William Tavoulareas "set up" his son in Atlas. It did not report that William Tavoulareas "set up" Atlas for his son, or that "the creation of the entire Mobil-Samarco-Atlas relationship was a nepotistic act." A19, A230. "The article simply will not reasonably bear Tavoulareas' interpretation," the court of appeals concluded, "as evidenced by his failure to cite anything in the article itself to support this reading." A230. The court stressed that the article (1) "discussed at length Mobil's legitimate business reasons for participating in Samarco, namely its anticipation of Saudi flag preference requirements and favorable Saudi financing," A230-31; and (2) "expressly buttressed the credibility of Mobil's stated business reasons for joining Samarco," by "specifically report[ing] that the other non-Saudi partner in Samarco, Fairfield-Maxwell, joined on the basis of the same 'anticipated benefits.' ¶ 43." A231.

This Court should not grant certiorari simply to review the court of appeals' reading of the article. Quite apart from the fact that the issue is one of local District of Columbia law, not federal law, the court of appeals' ruling that the article is not susceptible to Tavoulareas' interpretation is a fact-bound determination that does not merit this Court's attention.[14]

---

[14] There is yet another reason why review of this ruling would be unwarranted: the complaint did not allege that the article charged Tavoulareas with engineering the entire Mobil-Samarco-Atlas arrangement to benefit his son, and Judge Gasch limited the trial to the "allegations of defamation pleaded with specificity." RE 708. The court of appeals took note of this procedural issue, but did not decide it, choosing instead to reach the merits of Tavoulareas' contention. A225 n.16.

There is likewise no reason to review the court of appeals' rejection of the argument advanced by Judge MacKinnon in dissent that the statement that Tavoulareas "set up" his son in Atlas implied a "misuse of corporate assets" by Tavoulareas. A226 n.16. As the court noted, that argument "has not been pressed on appeal by Tavoulareas." *Ibid.* Indeed, the argument was not presented to the jury.[15] And assuming the argument was properly presented, the court of appeals correctly rejected it: "even if we address the merits of this argument, we both doubt the plausibility of the new interpretation and, more importantly, quite frankly fail to see what it adds." *Ibid.* As the court explained,

> . . . characterizing Tavoulareas' underlying conduct as misuse of corporate assets, as the dissent would have us do, rather than as nepotism, would seem to change nothing. Both labels refer to the same nucleus of alleged facts, and, as we hold below, those facts are true.

Ibid.

---

[15] The misuse-of-assets claim at trial was based on the December 1 article, as to which the jury found no liability. Plaintiff's counsel argued to the jury in closing: "It's the December 1st article, of course, that has the most serious charges against William Tavoulareas. It said . . . that he misused corporate assets to enrich his son." Trial transcript ("Tr.") 4372. The December 1 article quoted Rep. Dingell's letter to the Chairman of the SEC, stating *his* opinion that "[i]t . . . appears that William [Tavoulareas] misused corporate assets to buy out George Comnas and enrich his son." App. Opp. 3a. Thus, the misuse-of-assets charge was presented as Rep. Dingell's opinion in the December 1 article, and was limited to the use of Mobil funds to provide a consulting contract to George Comnas in return for his agreeing to leave Atlas. When Tavoulareas argued in his opposition to the motion for j.n.o.v. that the November 30 article implied a misuse of assets, the district court rejected the argument as a matter of law: "This might conceivably be an accurate description of the December 1 article but not of the November 30 story—the one that the jury found the defendants liable for publishing." A20.

B. Truth

The court of appeals' ruling that the article's central theme was true—that Tavoulareas had in fact "set up" his son in business—was based on extensive *undisputed* evidence establishing the following facts, among others:

• "Tavoulareas *personally* recruited Comnas to manage Samarco's ships (ultimately through the vehicle of Atlas Maritime) shortly after learning that Peter had an outstanding offer from Comnas . . . ." A239 (emphasis in original). As the court of appeals noted, this undisputed fact alone "goes far toward justifying the charge that Tavoulareas 'set up' his son in Atlas." *Ibid.*

• Tavoulareas "remained personally involved in the Samarco-Atlas arrangement," and "helped Atlas secure its management agreement with Samarco." A239, 241. In August 1974, for example, Tavoulareas took Peter—but not Comnas—to Geneva to meet the Alirezas, Mobil's partners in Samarco. A239. Tavoulareas discussed the tentative Samarco-Atlas contract with the Alirezas, urging them to accept Atlas' contention that Atlas should be independent of Samarco and should receive both a minimum fee and an equity interest in the ships it managed. A240. Although the Alirezas originally believed Samarco should have control of the management group, "Mobil's pro-Atlas position on this fundamental issue prevailed." A240. Again in late 1974, Tavoulareas sought to persuade Ahmed Alireza to agree to Atlas' position on the final disputed issue between Samarco and Atlas concerning Atlas' compensation. Based on his discussion with Alireza, Tavoulareas recommended to Comnas and Peter that they accept Alireza's counter-offer. Atlas followed this recommendation, and the Samarco-Atlas deal was consummated. A240.

• Just four months after the Atlas management agreement was signed, Tavoulareas "personally participated in the series of events whereby Comnas in short order re-

signed from Atlas, with Peter [previously a 40 percent owner] becoming its 75 percent owner." A241. The decision to discharge Comnas was made at a meeting in Tavoulareas' office, and Tavoulareas "participated fully in the discussion." A241. A few days later, "without even notifying or consulting [Mobil's] other partners in Samarco," Tavoulareas flew to London to tell Comnas that " 'we weren't satisfied with [his] services.' " A242. He "personally participated" in negotiating a settlement with Comnas, which included a consulting agreement with Mobil. A242.

• Tavoulareas "played a pivotal role in helping Atlas not only to survive but to prosper after Comnas left." A242. He "personally participated" in the deliberations at Mobil that led to the decision to make a senior and highly respected Mobil executive available to Atlas as an interim manager. A242. And he flew to Saudi Arabia to persuade the Alirezas to keep Atlas as Samarco's management firm despite Comnas' departure. A243.

As the court of appeals concluded, "[t]he record abounds with uncontradicted evidence of nepotism in favor of Peter." A239. This Court should not grant certiorari simply to conduct another review of that evidence.

C. Actual Malice

Nor is there any reason to grant certiorari to review the factual basis for the court of appeals' conclusion that there was no jury issue of actual malice. "At the outset," the court of appeals stressed that its examination of the alleged evidence of actual malice "cannot be divorced from our earlier conclusion that the record before us cannot reasonably support a finding that the central theme of the article was false." A257.

In addition to the undisputed evidence of the article's truth, there was "overwhelming record evidence that the Post defendants published the article in good faith."

A266. Patrick Tyler, the Post reporter, engaged in "thorough" research, gave the Tavoulareases and Mobil ample opportunity to comment, reported their viewpoints at great length, and had a solid, factual basis for every statement in the article. See A256, 266-67. As the court of appeals noted, "Tyler included most of the information furnished by Mobil in the article (with no substantial omissions) and suppressed no information that would have proved the article incorrect." A266.

The court of appeals' discussion of actual malice focused upon the only statement that it determined the jury reasonably could have found to be false and defamatory—the statement that Tavoulareas "personally urged" George Comnas to accept Peter as a partner in Atlas. A247. For reasons fully explained by the court of appeals, and carefully documented in the record, there was no substantial evidence that that statement was published with actual malice. It was undisputed that George Comnas told Tyler that Tavoulareas had personally urged him to include Peter in Atlas. A251. Indeed, it was undisputed (and admitted by Tavoulareas in SEC testimony reviewed by Tyler before publication) that Tavoulareas in fact knew that Comnas and Peter had already discussed going into business together when Tavoulareas recruited Comnas. A237-38, 252. Still, the Post reported four times in the article that Mobil and the Tavoulareases denied that Tavoulareas had urged or initiated Peter's involvement. See A270, at ¶¶ 23, 25, 32, 53. As the court of appeals noted, that was an "even-handed approach that scarcely bespeaks the presence of actual malice." A260 n.44.

Tavoulareas argues that the Post should have suppressed Comnas' account as false, but both the district court and the court of appeals concluded that the decision to publish Comnas' account "does not come close to approaching the level of recklessness required by the Supreme Court." A9-10, 252. As both courts explained, "much of Comnas'

information was independently verified by other sources whose credibility even the plaintiff does not now challenge." A11, 252.[16]

In addition, "Tyler had other, substantial reasons to believe Comnas." A253. These reasons included (1) "Tyler's uncontroverted knowledge that 'Comnas provided virtually the same information to Tyler as he gave to investigators for the House Subcommittee,' including the substance of the 'personally urged' allegation," A253; (2) the fact that "Comnas 'obviously had a substantial business career and reputation which could be damaged if he lied,' " A254; and (3) the fact that "no Mobil representatives ever gave Tyler the slightest indication that Mobil questioned Comnas' credibility or ethics." A255 (quoting the district court) (citations omitted).[17]

In short, there was "abundant, undisputed evidence in the record supporting Tyler's decision to credit Comnas' story." A255. No point would be served by granting certiorari to review that evidence or any of the other evidence that has been reviewed in painstaking detail by the trial judge and the full court of appeals.[18]

---

[16] Tavoulareas himself had admitted important elements of Comnas' account in his testimony before the SEC. Paul Wolfe, Mobil's spokesman, confirmed other details of Comnas' account. John Kousi, "a highly respected" Samarco director whose credibility was never challenged, verified much of what Comnas said, and added his own view that Peter's employment was "a nepotistic act." A252-53.

[17] In fact, as Judge Gasch noted, "Tyler had discovered many unsolicited laudatory comments made about Comnas by Paul Wolfe (Mobil Executive Vice President), Kousi [a Samarco director], and *William Tavoulareas himself*." All (emphasis added).

[18] Tavoulareas mentions purported evidence of Tyler's alleged ill will, but the court of appeals correctly characterized that evidence as "lacking in probative value." A262. Tavoulareas also refers to a memorandum written by a copy editor, Christine Peterson. Far from supporting Tavoulareas' claim that the court of appeals re-

D. Public Figure

The public figure rulings of the district court and the court of appeals (from which there was no dissent) were also grounded in the particular facts of this case. As those facts make clear, this is not a case in which a private citizen, leading a life of relative obscurity, was drawn into a controversy that attracts the attention of the public. As the court of appeals noted, William Tavoulareas was the "president and chief operating officer of one of the world's largest multinational corporations," which was itself "at the center of a vigorous public debate touching on a vital national interest." A214. Tavoulareas was "not 'merely a boardroom president.'" A215 (quoting *Waldbaum* v. *Fairchild Publications, Inc.*, 627 F.2d at 1300). He was an "outspoken" industry leader, who "sought and received public attention on the management of the Nation's oil companies." A215. Tavoulareas had "avowedly attempted to 'thrust [Mobil and himself] to the forefront' of the national controversy over the state of the oil industry." A214 (brackets supplied by the court).

---

solved inferences against him, the court's handling of the Peterson memorandum illustrates its reliance upon the traditional j.n.o.v. standard. "In order to credit all permissible inferences that the jury may have drawn," the court explained, "we reject Peterson's trial testimony [about her memorandum] and accept Tavoulareas' proffered inference." A258. The court went on to explain that "[t]he Peterson document is subject to two reasonable interpretations when construed against the *Post*, both of which fail to connect Peterson's disbelief to a false and defamatory meaning present in the article." A258. First, the memorandum could be interpreted to reflect Peterson's disbelief that Tavoulareas established the entire Mobil-Samarco-Atlas arrangement to benefit his son. A258. But the article itself contained no such implication. Second, the Peterson memorandum "could be interpreted more narrowly to express disbelief that Tavoulareas 'set up' Peter in Atlas." A260. But that statement, the court held, was true. Under either interpretation, the Peterson memorandum did not express doubt about any false statement or implication contained in the article.

Both the district court and the full court of appeals also found that Tavoulareas was at the center of a pre-existing public controversy over the Mobil-Samarco-Atlas arrangement. A216-19, A379-82. As the court of appeals noted, that arrangement had troubled "[h]ighly respected outside members of Mobil's Board of Directors," who warned that "the appearance of a conflict of interest would hurt Mobil's public image and thereby have an adverse impact on Mobil's shareholders." A218.[19] The controversy "attracted the attention of journalists and government officials long before the November 30, 1979 article appeared." A216.[20] In the court of appeals' words, Tavoulareas "opened these matters for public scrutiny by going forward in the face of considered objections by leading businessmen serving on his own board, and then publicizing the affair to the press and to Mobil's shareholders." A218.[21]

---

[19] For example, as the court of appeals noted, Ambassador George McGhee, a Mobil director, "opposed Peter's involvement in Atlas from the outset, expressing the view that the arrangement was 'bad policy and precedent for the company' and would *'expose [Tavoulareas and his son] to the risks of possible adverse criticism, even investigations by Congressional committees.'* " A218 (brackets and emphasis supplied by the court).

[20] As the court of appeals explained, the SEC conducted an investigation into Tavoulareas' relationship to Samarco and Atlas in 1977, and ten days prior to publication of the Post article, Rep. John Dingell, Chairman of the House Subcommittee on Energy and Power, asked the Chairman of the SEC to reopen its investigation on the basis of information indicating, among other things, that Tavoulareas may have given misleading testimony to the SEC in 1977. A217. See App. Opp. 6a.

[21] Mobil's disclosures were themselves the subject of controversy. As the court of appeals explained, Mobil's initial 1974 announcement of the Samarco-Atlas deal did not mention Peter Tavoulareas' involvement. Mobil later publicized Peter's involvement by releasing information to a "widely read oil industry periodical." A216-17. As Tavoulareas explained, "we said at least make a public announcement to some extent, get it [Peter's involvement] in

The undisputed evidence establishing Tavoulareas' status as a public figure for purposes of this case was presented in a 500-page "Public Figure Index," and was the subject of a separate hearing conducted by Judge Gasch. See A215, A372-82. Further review by this Court would simply entail a needless reexamination of the same evidence that has been considered, thoroughly and without dissent, by the district court and the full court of appeals.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

EDWARD BENNETT WILLIAMS
Counsel of Record
DAVID E. KENDALL
KEVIN T. BAINE
PAUL MOGIN
WILLIAMS & CONNOLLY
Hill Building
839 17th Street, N.W.
Washington, D.C. 20006
(202) 331-5000
Counsel for Respondents

---

some periodical where people are concerned." Tr. 1881. Subsequently, after receiving repeated inquiries from reporters, Tavoulareas and Mobil's Chairman decided to disclose Peter's involvement in a 1976 letter to Mobil's quarter-of-a-million shareholders. A217. In a press release following the Post's November 30 article, Mobil asserted that the Mobil-Samarco-Atlas arrangement was "an old, old story which has been fully disclosed many times." App. Opp. 1a.

APPENDIX

APPENDIX

Page

"Dingell Cites Contradictions in Mobil Statements," *The Washington Post*, December 1, 1979 ..... 1a

Letter from Rep. John D. Dingell to The Honorable Harold M. Williams, November 20, 1979, with Attachments 6a

APPENDIX

[*The Washington Post*, December 1, 1979]

DINGELL CITES CONTRADICTIONS IN MOBIL STATEMENTS

By Patrick Tyler
Washington Post Staff Writer

1. The president of Mobil Oil Corp., William P. Tavoulareas, may have given "false and misleading" statements under oath to federal investigators who questioned him in 1977 about his involvement in a shipping management firm operating Mobil ships partially owned by his son, a House subcommittee chairman has charged.

2. Moreover, Rep. John D. Dingell (D-Mich.), whose subcommittee staff has been investigating the Mobil president's role in the shipping firm, said in a Nov. 20 letter to the Securities and Exchange Commission that "it appears" that William Tavoulareas "misused corporate assets to . . . enrich his son."

3. Meanwhile, in a news release yesterday, Mobil attacked The Washington Post for an article yesterday describing the involvement of Mobil's president in setting up his son as a partner in Atlas Maritime Co. and thereafter participating in several key decisions that enhanced his son's position and ensured the firm's success.

4. Mobil characterized the article as "an old, old story which has been fully disclosed many times."

5. "The Post article has twisted with innuendo and inaccurate statements what is in fact an open, straightforward, well-known business relationship," Mobil said.

6. The statement did not deny that Mobil's president participated in decisions and actions detailed in the article.

7. Dingell's letter to the SEC was based on seeming contradictions between the sworn testimony of Mobil's president given in March 1977 and a statement to the Dingell subcommittee staff by a key witness, a former Exxon executive who was initially recruited by Mobil to set up the shipping management firm, Atlas.

8. Atlas manages Mobil crude oil tankers through an intermediary company partially owned by Mobil.

9. The subcommittee's witness, George D. Comnas, 66, said that Mobil's president:

10. —Recruited Comnas to help set up Atlas.

11. —Asked Comnas to accept 24-year-old Peter Tavoulareas as a partner with an equity interest.

12. —Flew to Saudi Arabia twice in the summer and fall of 1974 to negotiate personally on behalf of Atlas with Saudi partners in the intermediary company.

13. —Made sure that Atlas would get Mobil's business through the intermediary company.

14. —Forced Comnas to resign by threatening to withdraw Mobil's business, and bought out Comnas' interest in Atlas with $90,000 in Mobil consulting fees.

15. It was after Comnas departed that Atlas was left in control of Peter Tavoulareas, who owns 45 percent of the firm, and one other employee.

16. Comnas' account, as told to the subcommittee investigators, conflicts on several points with the 60 pages of sworn testimony given by Mobil's president. A copy of the testimony was obtained by the Post.

17. In his 1977 testimony, Mobil's president was asked whether he was involved "directly or indirectly" with the events that led to his son's increasing his ownership position in Atlas when Comnas resigned.

18. Tavoulareas replied, "No."

19. However, Comnas' statement says that Mobil's president traveled to London with another Mobil executive in April 1975 to meet with Comnas and propose that he resign.

20. Comnas quoted Mobil's president as saying, "You know that without Mobil's active participation Atlas hasn't any possibility of profits."

21. At that point, Comnas told the subcommittee, Mobil's president offered him $90,000 in consulting fees over three years as settlement for Comnas leaving Atlas.

22. A Mobil spokesman, in a statement to The Post last week, also acknowledged that, "Yes, Mr. Tavoulareas played a minor role . . . in the arrangements made when Comnas departed from Atlas . . . to the extent of assuring a settlement that was fair and equitable to both parties."

23. The clear inference drawn by Dingell was that Mobil's president improperly participated in an ownership change of a company that Mobil does not own. In his letter, Dingell said, "It . . . appears that William [Tavoulareas] misused corporate assets to buy out George Comnas and enrich his son."

24. In 1977, the SEC investigators never directly asked Mobil's president whether he personally urged that his son be made a partner in Atlas when it was formed in 1974.

25. In its statement to The Post last week, Mobil officials said that the elder Tavoulareas played no role in helping his son become a partner of Atlas.

26. However, Comnas' account to the subcommittee says that in April 1974 he received a telephone call from William and Peter Tavoulareas in which Mobil's president suggested that Peter join Atlas as a partner. Comnas said that he recognized that Mobil was his benefactor in the project and agreed to include Peter as an equity

partner, though, Comnas said, Peter contributed no capital or operating expenses to start up Atlas.

27. Subsequently, Comnas told the subcommittee staff, he worried that Peter Tavoulareas' involvement might create a conflict of interest for Mobil and that he expressed this concern to Mobil's president.

28. On April 27, 1974, Comnas said he received a telephone call from Rawleigh Warner, Jr., Mobil's chairman. Comnas said Warner told him that the subject of Peter Tavoulareas' involvement in Atlas had been raised in a management meeting at Mobil and that those in attendance saw no problem with the arrangement.

29. After his son joined Atlas, Mobil's president said in his testimony, he divorced himself from all dealings with the firm.

30. However, according to Comnas' statement, the elder Tavoulareas traveled to Saudi Arabia twice in the summer and fall of 1974 to negotiate personally with the Saudi partners in the intermediary company through which Mobil provided ships to Atlas. Comnas said that during these negotiating sessions Mobil's president effectively represented Atlas.

31. Based on Comnas' statements, Dingell said in his letter to the SEC that Mobil, the second largest oil company, may have violated federal securities laws, "including those applying to failure to disclose material information to stockholders, conflicts of interest and the misappropriation of corporate assets."

32. In its denouncement of yesterday's Post article on the formation of Atlas and the Mobil president's involvement in his son's venture, Mobil discounted the financial benefits that have accrued to Atlas under its contract to manage Mobil ships.

33. "Far from being a 'lucrative' contract, the fact is that when the principal owner of Atlas [Comnas] resigned

in 1975, at least two other senior ship company professionals turned down the opportunity to take over his interests because they believed it was not sufficiently rewarding," Mobil said.

34. The company also said in its four-page statement that, "We are amazed at the attention The Post is focusing on Mobil . . . It is clear that in a situation involving a member of the immediate family or senior officials, Mobil has required prior approval, made full disclosure of all circumstances and has required regular status reports."

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

Subcommittee on Energy and Power
of the
Committee on Interstate and Foreign Commerce
WASHINGTON, D.C. 20515

November 20, 1979

The Honorable Harold M. Williams
Chairman
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549

Dear Mr. Chairman:

Pursuant to its legislative oversight responsibilities, the Subcommittee has received evidence of certain questionable transactions by Mobil Oil Corporation. These transactions and activities, if true, may violate Federal securities laws, including those applying to failure to disclose material information to stockholders, conflicts of interest, and the misappropriation of corporate assets. In addition, false and misleading information and testimony may also have been supplied to the Securities and Exchange Commission during the course of a Commission investigation in 1977. The Subcommittee staff has received statements and evidence from previously unavailable sources which tend to confirm the accuracy of the information in this letter.

I have attached a staff memorandum which details the information the Subcommittee has learned. A second memorandum, also attached, contrasts this information to the sworn testimony of William Tavaloureas, President of Mobil, given to your Commission in 1977. The following summarizes the information given to the Subcommittee staff.

In early 1974, Mobil entered into a partnership with certain influential Saudi Arabian citizens and Fairfield-Maxwell Corporation to form a maritime corporation, known as "Samarco". Samarco appears to be essentially a paper corporation for which the Saudis received a 55% interest in shipping activities which had previously been handled by Mobil itself. Samarco's actual management was handled by another company, Atlas Maritime Corporation, established at about the same time. Atlas is paid fees to manage the Samarco fleet. Peter Tavaloureas, son of William, is a partner in Atlas.

William Tavaloureas may have been actively involved in the formation and operation of both Samarco and Atlas, notwithstanding the potential conflict of interest and his denials of participation. Moreover, he allegedly was responsible for forcing George Comnas, the founder and controlling shareholder in Atlas, to relinquish his interest, thereby enriching the remaining partners, including his son Peter. Comnas received nothing from the remaining partners for his share of Atlas, but did receive $90,000 over three years from Mobil under a consulting contract, for which he performed virtually no services for Mobil.

Mobil's stockholders were not informed of these potential conflicts of interest until November 1976, over two and one-half years later. The Subcommittee's information indicates that this disclosure was incomplete and may have been false and misleading. Furthermore, it appears William Tavaloureas may have also misled Mobil's management and directors concerning his involvement in these activities.

Our information indicates that William Tavaloureas may have improperly used Mobil's influence to place his son at Atlas. It also appears that William misused corporate assets to buy out George Comnas and enrich his son. The Subcommittee investigators have also learned

that Mobil may also have given preferential treatment to ships owned and managed by Atlas as a result of the Tavaloureas relationship.

In 1977, your Commission opened an investigation on this matter and received sworn testimony from William Tavaloureas. It appears that Tavaloureas may substantially have misled the Commission concerning these transactions and his involvement, and this testimony led to a Commission decision to proceed no further into the matter. I assume that this new evidence will lead you to reopen your investigation to determine the veracity of this new information and to determine whether there have been any violations of the securities laws or other Federal statutes.

Sincerely,

/s/ John D. Dingell
JOHN D. DINGELL
Chairman

JDD/jh

November 19, 1979

MEMORANDUM

To: The Files

From: Peter Stockton and Dave Schooler

Re: Summary of Interview with George Comnas on November 17, 1979

Peter Stockton and Dave Schooler of the Subcommittee staff interviewed George Comnas at the Comnas residence in Osterville, Massachusetts on November 17, 1979. The interview began at approximately 2:15 p.m. and concluded at 5:15.

Comnas, 67, had served 30 years for Exxon. He was Peter Tavoulareas' (Peter) first boss at the C.M. Lemos & Co., Ltd's London office. He was then a consultant to Mobil and later formed Atlas Maritime Company, in which Peter became an equity partner.

The following is a summary of the statements made by Comnas at the interview:

Peter joins Costos Lemos firm

In December 1972, Costos Lemos, the largest of the Greek shipping magnates, consulted with Comnas, who at the time was the head of the Lemos London office. Lemos told Comnas that he had just met with William Tavoulereas (William), President of Mobil, while Lemos was in New York City at a meal. William had asked Lemos to consider William's son, Peter, for a job in his London office. Peter was a recent graduate of the Columbia Business School. Lemos asked Comnas for his views on whether it was advisable to accept him as a trainee in the office.

Comnas told Lemos that there would be problems. Peter lacked knowledge of the Greek language. Furthermore, the London office was small with no excess capacity, and Comnas did not wish to take on a trainee.

He told Lemos that if Lemos were to hire him, it would be wiser to place him in the New York office, but Lemos said that William wanted Peter trained in London. Comnas understood the situation and said he would go along. Peter was ultimately hired.

Comnas told us that Greek shipping firms would never hire American business graduates who were unable to speak Greek. Peter would never have been hired had he not been William's son. The Lemos firm was not looking for personnel, particularly raw recruits from America, Comnas told us. Comnas did not know Peter personally, and his comments to Lemos were based upon the general proposition of hiring an American.

Comnas found Peter to have a good mind, but lacking concentration. He had no chartering understanding nor engineering background. He did not work hard and "wanted to become a millionaire overnight". He never did first class work in his job as general assistant.

The formation of Samarco

In January 1974, Comnas left Lemos. Comnas had been interested in having an equity interest in certain Lemos projects. He signed on to a three-year agreement, but he continued for five. He decided to leave when he was unable to convince Lemos to agree to various projects he had arranged, and in which he had intended to be an equity partner. Comnas left Lemos on good terms.

In February 1974, William called Comnas and asked him if he would be interested in helping Mobil as a consultant on some unspecified shipping matters. Comnas had met William in the early 60's while working on a joint Mobil-Exxon project, and for the past two years, he had been Peter's boss at Lemos.

Comnas agreed to the offer and was immediately dispatched to Saudi Arabia on a plane with Mobil executive, Jack Butler. On the plane, Comnas learned the following facts:

In 1973, as a result of noting the large shipping profits in oil, Ali Alireza and Prince Fahd and his son, Mohammed, began considering the prospects for a Saudi maritime industry. The Alireza family is one of five major merchant families in Saudi Arabia. In order to do business in Saudi Arabia, one of these powerful families must be a "partner" or "agent". Prince Fahd was (and still is) considered the second most powerful person in Saudi Arabia. The Alirezas and Fahd had developed a particularly close relationship.

Thus, they developed a plan for a maritime company which would be jointly owned in the following way: Mohammed (20%); Alirezas (35%); another company (45%). Of course, the Company, and not the Saudis, would put up any necessary capital and pay expenses.

The Alirezas were Mobil's agents for certain petroleum products (such as lube oils) in Saudi Arabia, so they naturally approached Mobil to see if they could get Mobil's participation. Mobil declined. Henry Luck was apparently the Mobil executive who said "Thanks, but no thanks", although presumably the decision was approved at higher levels.

Comnas could only speculate over why Mobil declined, but suggested that the offer had been made at a time when many countries had been considering flag preference laws, and the oil companies had been steadfastly refusing to yield to countries under the threat of such laws. Mobil could have preferred continuing to own and operate its own shipping fleet.

The Saudis then approached Fairfield-Maxwell, a Japanese firm under the control of the Sugihara family. The firm manages and owns several tankers. The company was also close to Mobil. Fairfield definitely wanted in, and may have been interested in

selling ships to the company and managing their operation. The Saudis agreed to the deal and signed a contract later that year.

By January 1974, top executives of Mobil learned of the deal with Fairfield and now wanted to get back in and displace Fairfield. The Saudis were interested, but recognized that they had a contract with Fairfield. They therefore recommended holding three-party negotiations among Mobil, Fairfield and themselves to arrange to include Mobil at the expense of Fairfield's share. Thus, Comnas was responsible for advising Mobil to enable them to get back in the deal.

In March 1974, Comnas took a second trip to Saudi Arabia and by April, saw signs of success. Mobil was successful and managed to obtain a 30% interest in the maritime company, and Fairfield's interest was reduced to 15%. The Alirezas retained their 35% and Mohammed retained his 20%. This martime company came to be known as Samarco.

Comnas again could only speculate on why Mobil changed their mind. They would be likely to get preferential treatment. The Alirezas and Prince Fahd were very influential Saudis and developing a close relationship with them would prove to be valuable. For example, Mobil had an interest in a refinery at Yando, a lube oil refinery near Jedda, and the Trans-Arabian pipeline to the Yando refinery. It is common practice to include Saudis in business transactions (even though the Saudis get a "free ride"), although they normally get about 25%, rather than the 55% in this case.

The formation of Atlas

In April 1974, with the Samarco deal underway, Comnas began to see the need for the establishment of a marine management company to manage Samarco's ships. Essentially, Samarco would be a paper company, and the

actual management of ships would be handled by a management company, later to be known as Atlas.

Typically, a management company provides the crew, provisions, maintenance, and other operating expenses for a ship. In this case, Samarco would be used to place Mobil ships under the Saudi flag and the management company would provide the services. Samarco would obtain a "bareboat charter" from Mobil, running the ships as if they were their own, and then lease the ship back to Mobil.

In April 1974, Comnas not only saw a potential need for a management company for Samarco, but also began considering establishing and owning such a company, to be known as Atlas. At the same time, he received phone calls from both William and Peter, suggesting that Peter join Atlas as a partner.

Comnas recognized that Mobil was the major benefactor, and therefore quickly agreed to include Peter as a partner. If Peter had not been William's son, Comnas would not have considered taking him in, considering his poor perfor nance at Lemos and lack of experience in a variety of aspects of shipping, Comnas told us.

Comnas originally suggested to Peter that they would split the interests by giving Peter 15% and Comnas 85%. He quickly sensed that Peter expected more, and soon raised the offer to 25%. Although Comnas never discussed the specific percentages with William, he believed that Peter and William were in close communication. The incorporation expenses were borne by Comnas, but were recovered when the corporation began operations. Peter paid nothing for his share of the business. Peter ultimately joined Atlas in early July 1974. In September 1974, Peter became dissatisfied with his share and suggested getting a 45% share. Comnas made a counteroffer of 40%, which was accepted.

Upon reflection, in April 1974, Comnas recognized the conflict of interest problems because of Peter's interest in Atlas and informed William of his concerns. William said that he would inform company officials. On April 27, 1974, Comnas received a phone call from Rawleigh Warner, Mobil's Chairman of the Board. Warner told Comnas that the subject had been discussed at a management meeting, and that they saw no problem with Peter's interest in Atlas. Comnas wrote a memorandum to the file to memorialize the phone call, but the memorandum was discarded in the summer of 1979.

Comnas then began to work out a draft contract, which was an operating management document, to be agreed upon between Samarco and Atlas for the management services of Atlas. Comnas worked with Harmon Hoffman, Mobil's top shipping executive, and others at Mobil to work out the draft contract, and did so relatively quickly.

The contract was then reviewed by the other partners in Samarco, and the Saudis expressed concern over nearly all of the aspects of the contract. The negotiations over the contract were discussed at a desert feast held in July 1974, and attended by Comnas, William, the Saudis, and others. Problems continued until a second meeting was held in late October or early November at a palatial house at "The River" outside Riyadh. The meeting was attended by Comnas, William, Hoffman, Bob Carr, Jack Butler, Wally MacDonald (all Mobil executives), and John Kousi (of Fairfield-Maxwell), the Alirezas, Mohammed, and others. At that meeting, William sat with the Alirezas to discuss the negotiations, and to convince them that they should accept the Atlas position on the contract. In a sense, William negotiated on behalf of Atlas, according to Comnas. The Saudis had numerous concerns over the contract, including the amount of the fee to be paid to Atlas. William was successful in convincing the Saudis to accept the Atlas proposal, as revised during

negotiations up to that date. Comnas believes that the Mobil executives who attended the meeting will corroborate William's role.

In December 1974, the parties got together to sign the contract. At that time, the Alirezas approached Comnas to ask him to explain the exact ownership interest of William and Peter in Atlas. He told them that Peter had a 40% share, and that he had a 60% share. They appeared relieved that Comnas had the controlling interest, and signed the contract.

The contract provided that Atlas would manage two ships for Samarco for $300,000 a year per ship. The ships, named *Saudi Glory* and *El Haramain*, were owned by Mobil and were bare-boat chartered to Samarco and chartered back to Mobil. Samarco chartered the ships to Mobil for $300,000 per year, so Samarco made nothing on the deal, but Atlas stood to gain considerably, and particularly would get the company going. Comnas was not involved in later transactions of Atlas, but assumes that additional ships were managed by Atlas at a fee which would profit both Samarco and Atlas. These fees for the first ships, though, were designed to "put Atlas on its feet" and thus get Samarco going as well.

Comnas pointed out that once Atlas and Samarco were established with two ships, future business would come more easily, and there would be a great profit potential.

During the startup phase, and even prior to the signing of the contract, Mobil was providing Atlas office space and expenses.

By April 1975, the *Saudi Glory* was in operation by Atlas, and the *El Haramain* was due to commence in the near future. Atlas was also fully staffed with management that Comnas had brought from Lemos.

Comnas actually set up several corporations for a variety of maritime and tax purposes. One was Herold

Holding Company which collected the funds for Atlas. Another company was Inter-Ocean Shipping Co., Ltd.

Comnas is forced out of Atlas

In February 1975, strained relationships developed among the Atlas partners. Comnas had brought in a third partner, Aris Emmanuel, in June 1974. Emmanuel had been trained by Comnas and had worked for him at Lemos as an insurance specialist. Comnas had discussed with Peter giving Emmanuel a 5% share (3% to come from Comnas, 2% from Peter) and Peter had agreed.

Comnas began having serious troubles in February 1975 with Peter. Peter was not doing the necessary staff work, was not coming to meetings on time, and was generally not bearing his share of the work. Comnas tried to develop discipline in Peter, but Peter reacted negatively to the criticism. Emmanuel and Peter were contemporaries and had become close friends. Hence, Emmanuel tended to side with Peter more than with Comnas.

Comnas generally received two or three phone calls per month from William. The discussions ranged from Peter's development to the operation of Atlas. William was knowledgeable on the operation of Atlas. He had become involved in negotiations over its contract with Samarco. Once Peter joined Atlas, he called William daily. It was clear to Comnas that William was therefore aware of the friction which was developing.

In March 1975, William called Comnas and said that he would be in London (where Atlas is located) in April and wanted to talk with him.

On April 5, 1975, in the morning, Harmon Hoffman (Mobil's shipping executive) arrived at Comnas' office. He told Comnas that he "heard he was having trouble with Peter and Aris". Comnas replied that it was just a strain, but that the company was really doing quite well. One ship was in operation and the second was due

to commence. Hoffman then proposed that Comnas leave Atlas. Noting that Mobil had brought Comnas in, Hoffman said that Mobil would therefore be willing to offer Comnas a three-year consultancy.

In the afternoon, William arived at Comnas' office. William also alluded to the troubles. He said that Comnas had taken no risks in starting Atlas. Then he said, "You know that without Mobil's active participation, Atlas hasn't any possibility of profits". He renewed the offer of a consultancy.

By this point, Comnas decided that he had had enough. He could see that he would always be caught between the father and son, despite his controlling interest. He therefore decided to leave and give up his interest in the company without any compensation and accept the three-year consultancy with Mobil, at $30,000 per year.

Comnas told us that it was difficult to place a value on his interest in Atlas as of April 1975. However, he stated that he would have been unlikely to sell out for $100,000 or even more, because Atlas was getting off the ground and certainly had great potential (except, of course, if William's implied threat was carried out). Comnas did not know whether his 60% interest went solely to Peter, or whether Emmanuel received a portion of it. (Comnas told Stockton, in an earlier conversation, that he only attended one or two meetings during his three years as a $30,000 a year consultant to Mobil.)

Events after Comnas leaves Atlas

When Comnas left, Hoffman was apparently detailed to Atlas for six months to manage the daily operations. It is unclear whether Hoffman was on the Mobil or Atlas Payroll. Hoffman then returned to Mobil.

Comnas had little direct knowledge of Atlas' operations after he left Atlas in April 1975. He has heard that

Atlas now manages or owns from 11 to 20 ships, but suggested that we could check that out.

William became vindictive towards Comnas after the Atlas affair. On one occasion, in the summer of 1975, William went to Comnas' Greek lawyer, Mark Gregaroupoulous, outside of Athens and offered the lawyer a job with Atlas-Samarco at double the retainer being paid by Comnas, on the condition that the lawyer ceased all work for Comnas. The lawyer refused. He recounted the story to Comnas.

On another occasion, in April or May 1976, William approached Klaus Jacobs, then President of the European-American Bank, and suggested that the bank use Atlas to manage its ships rather than using Comnas. He reminded Jacobs that Mobil maintained substantial deposits in the bank. Nevertheless, the bank retained Comnas to manage the fleet. Jacobs related his conversation with William to Comnas.

Since leaving Atlas, Comnas has been adviser to Pertamina, the Indonesian national oil company; managed ships for the European-American bank; and is involved in developing and marketing metallurgical processes.

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

Subcommittee on Energy and Power
of the
Committee on Interstate and Foreign Commerce
WASHINGTON, D.C. 20515

November 19, 1979

MEMORANDUM

To: The Honorable John D. Dingell

From: Peter Stockton and Dave Schooler

Re: Apparent Contradictions between Tavoulareas Statement to SEC and other Evidence.

This memorandum analyzes a transcript of an interview conducted by the Securities and Exchange Commission of William Tavoulareas on March 31, 1977 concerning matters relating to Samarco/Atlas and potential conflicts of interest.

Recent Subcommittee investigations indicate that Tavoulareas may have lied and misled the SEC throughout the interview. This memorandum compares Tavoulareas' sworn testimony with statements of George Comnas received by the staff.

Peter Joins Costos Lemos Firm

Q. Did you contact anybody at Costos Lemos in person to indicate that Peter wanted to join the firm and indicating his interest in joining them?

A. I don't recall myself having any direct contact with that at all.

Q. In other words, he did it all on his own?

A. I said—I didn't talk to Costos Lemos would you please hire my son? I didn't talk to anybody in the organization. He came out of school and let various

people know he wanted a job in London with a shipping company and Lemos came along with an offer and hired him. I never said please hire my son.

Q. Am I correct, he got the job on his own?

A. Yes. I think Costos Lemos must have known he was my son. He came qualified. Costos Lemos hired from time to time these exact M.B.A.'s. It was no favor. (Transcript, p. 16, lines 10-25)

Comnas: Costos Lemos asked the advice of Comnas, who at that time was head of the Lemos London office. Lemos told Comnas that William Tavoulareas (hereinafter cited as William) did talk to him and asked him to hire his son. The meeting was held in New York City in December 1972. Comnas advised against the decision, based upon Peter Tavoulareas' background. He states that Greek shipping firms did not hire American business graduates who did not speak Greek.

Formation of Samarco

A. . . . Apparently Alireza went ahead with the other people, Arabian and Fairfield, to form a company and then came back to us apparently at a higher level, as I recall, and again offered us participation. (Transcript, p. 18, lines 14-17)

A. Right. They came back to us, as I said and offered us a participation, but instead of 50%, they now offered us 30%.

We reconsidered and decided that it was in the interest of Mobil to participate in this group, and we did. (Transcript, p. 19, lines 14-19)

Comnas: The Saudis did not come back to Mobil after completing the deal with Fairfield. It was Mobil that changed its mind, and went to the Saudis. The offer of 30% was actually the result of three-party negotiations (Saudis, Fairfield, and Mobil) in which the 45% share held by Fairfield was reduced.

Formation of Atlas

A. . . . Peter Tavoulareas actually joined Atlas in August, 1974 after the contract with Atlas was negotiated. (Transcript, p. 24, lines 10-11)

Comnas: Peter's partnership was arranged in April and he joined Atlas in July, 1974 and that the contract with Atlas was not finalized until December, 1974. There were serious and difficult negotiations on the contract until it was signed.

Q. Do you know what percentage interest he had with the company when he joined?

A. I'm not—I am not sure of that percentage. I don't even—not even—I'm not sure how the percentage broke down at this time. (Transcript, p. 24, lines 16-20)

Comnas finds this difficult to believe.

Q. Do you know today what interest your son has?

A. I think that Comnas has left. The company is owned by Peter Tavoulareas and Aris Emmanuel. (Transcript, p. 24, lines 21-24)

Comnas: Comnas was forced out of Atlas by William. Therefore, William was certain that Comnas had left. The term "think" is misleading.

Q. Do you know how much your son invested when he joined Atlas?

A. No, I don't know offhand. (Transcript, p. 25, lines 5-7)

The transcript continues with further questions on how Peter financed his investment.

Comnas: William would have known that Peter did not invest any money, and could have told the SEC that.

Q. Do you know from conversations with your son why George Comnas invited your son to join him with Atlas?

A. As I understand the background, George had worked for a big company, Exxon, for many years and he retired. He then worked in a very senior position to Costos Lemos and George said, I want to go out on my own name.

There are two fellows from Lemos that I would like to have come with me, Aris Emmanuel and Peter Tavoularеas. (Transcript, p. 26, lines 6-16)

> The statement suggests that Comnas, on his own initiative, decided to bring Peter. Comnas says he never would have brought him along, but did so at the request of William and Peter, because he recognized that Mobil had been his benefactor.

Q. Now, at the time negotiations began with Atlas, did you have discussions with your son about any potential conflict of interest?

A. When George first spoke to me about having Peter with him—well, maybe when Peter first spoke to me—I can't remember which—I worried in the future some day there may be a conflict and I told Peter that I was not sure he should go with George.

That was my advice to him.

Q. And that was because Mobil was considering negotiating with Atlas and Sumarco (sic)?

A. We had nothing particularly in mind at that time which of the owner (sic) *maybe we would do business with one or another. Then I discussed it with the Chairman and with George and I guess, as a matter of fact, in the early part I leaned against Peter going with him. I couldn't tell him not to, but I think if I advised against it he wouldn't have done it.*

Then as we started to negotiate with Atlas, that was not the time to consider whether or not Peter was going with George. (Transcript p. 27, line 25 through p. 28, line 20)

Comnas: In April 1974, which was when negotiations were beginning with Atlas, William requested him to bring along Peter.

Q. Were these individuals associated with Mobil Oil aware that your son had a beneficial interest in Atlas?

A. At the time they were negotiating he didn't have any beneficial interest in Atlas.

Q. Did they have any awareness that he may join Atlas in the future?

A. I could not say that. All I know there was no discussion that he should join Atlas at that time. (Transcript, p. 29, line 20 through p. 30, line 3)

Comnas: The decision to give Peter an interest in Atlas was discussed with William and Peter in April. Thus, William knew at the time of negotiations, referred to in the transcript, that Peter was certainly going to have a beneficial interest.

Q. Has Mr. Hoffman ever discussed formally or informally those agreements with you?

A. Has he ever discussed—I can't remember when Mr. Harmon (sic) *discussed it—the terms of the agreements in terms of the agreements, I never get involved in that at all. But I know about the agreements, yes. I do know about the agreements. I'm not involved in what the terms are.*

Q. Have you ever discussed with your son the terms of the agreements?

A. Never.

Q. Not even since the time of—

A. In other words, I never got into negotiations of any kind at all between Atlas and Sumarco (sic), *and the answer is no.* (Transcript, p. 35, line 18 through p. 36, line 7)

Comnas: William was intimately involved in the agreements. For example, William discussed the draft agreements between Samarco and Atlas with

the Saudis in late October or early November of 1974 to persuade them to accept its terms.

Comnas is forced out of Atlas

Q. Do you know why George Comnas withdrew from active participation in Atlas?

A. I would say that it was two reasons. The group of owners were not satisfied with his performance. George was not satisfied with the prospects for Atlas as it turned out and George was looking for something else.

There were exactly three reasons and he did get into something else. (Transcript, p. 37, lines 6-13)

Comnas: Comnas was forced out of Atlas by William because he was having problems working with Peter. William went to London on April 5, 1975 to force him out, telling him that without Mobil's active participation, Atlas' prospects were dim. William and Hoffman then offered Comnas a three-year consultancy with Mobil at $30,000 per year. Comnas has no knowledge that any of the other Samarco partners were dissatisfied with his performance. He flatly denies the second and third reasons put forward by William.

Q. Were you involved directly or indirectly with your son's increasing his beneficial ownership in Atlas?

A. I sure was not involved directly.

Q. How about indirectly?

A. I had knowledge of the fact that they were—before—the four companies were not satisfied with George's performance. (Transcript, p. 37, line 25 through p. 38, line 6)

See above.